

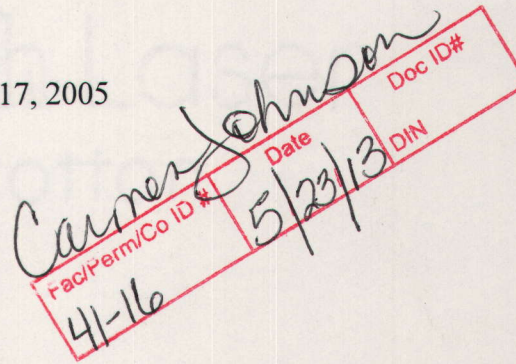
Kennedy Covington
ATTORNEYS AT LAW

*WCA High Point/
Franchise Agent*

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March 17, 2005

J. Edward Menger
Vice President and General Counsel
WCA Waste Corporation
One Riverway, Suite 1400
Houston, Texas 77056



Dear Ed:

Enclosed is a certified copy of the City of High Point City Council minutes that reflect the decision made by the City of High Point at two separate readings with respect to the MRR of High Point franchise. The relevant pages (marked at the top) are pages 131 and 132.

If you have any questions, please call me or Tom Terrell at 336.378.5412.

Regards,

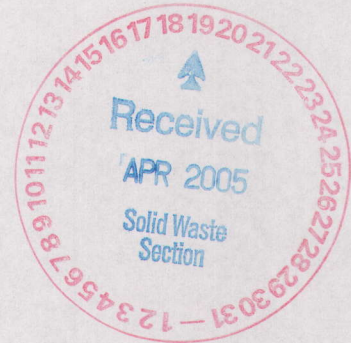
Edwin L. Barnes, Jr.
For the Firm

ELB/sts

cc: Norbert Hector (w/o encl.)



2312777.01
LIB: CHARLOTTE



NORTH CAROLINA

GUILFORD COUNTY

I, Lisa B. Vierling, City Clerk, certify that the foregoing is a true and accurate copy of the proceedings of an Official Meeting held by the City Council of the City of High Point, North Carolina, on *February 24, 2005* at 9:00 a.m. at the Municipal Building in the City of High Point.

IN WITNESS WHEREOF, I have hereunto set my hand and have caused the official corporate seal of said City to be affixed, this the 14th day of March, 2005.

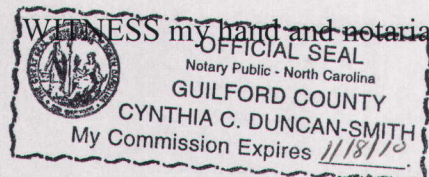


Lisa B. Vierling
City Clerk

NORTH CAROLINA

GUILFORD COUNTY

I, Cynthia C. Duncan-Smith, a Notary Public, do hereby certify that Lisa B. Vierling, City Clerk, personally appeared before me this day and acknowledged the due execution of the foregoing certification, for the purposes therein expressed.



Cynthia C. Duncan-Smith
Notary Public

My commission expires: 1/18/10

CITY OF HIGH POINT

MUNICIPAL OFFICE BUILDING

REGULAR MEETING

February 24, 2005

9:00 A.M.

ROLL CALL, PRAYER, AND PLEDGE OF ALLEGIANCE

Upon call of the roll, Mayor Rebecca R. Smothers; Mayor Pro Tem Latimer B. Alexander, IV and Council Members William S. Bencini, Jr.; John Faircloth; John T. Linton; Bernita Sims, Owen H. Strickland, II, M. Christopher Whitley and Ronald B. Wilkins were present.

Mayor Pro Tem Alexander offered the invocation; the Pledge of Allegiance followed.

APPROVAL OF THE JOURNAL OF THE PREVIOUS MEETING

Motion by Council Member Wilkins, second by Council Member Faircloth to approve the following minutes as submitted with the corrections regarding the February 7, 2005 and February 10, 2005 Meeting Minutes (050036 Ordinance- Annexation- Willard Road/Maxine Drive- Watson). The motion carried unanimously (9-0 vote).

- City Council Retreat; Saturday, February 5th @ 8:30 a.m.
- Finance Committee; Monday, February 7th @ 3:30 p.m.
- Committee of the Whole; Monday, February 7th @ 4:45/5:30 p.m.
- Public Safety Committee; Wednesday, February 9th @ 3:30 p.m.
- Regular Meeting; Thursday, February 10th @ 9:00 a.m.

CONSENT AGENDA

Upon motion by Council Member Wilkins, second by Council Member Sims, all matters on the Consent Agenda were unanimously approved and/or adopted. The motion carried unanimously. (9-0 vote)

Action will be reflected throughout these minutes as being made and seconded by the same persons.

Finance Committee

050056

Resolution - Bid No. 599 - Boulding Branch Greenway Trail - Phase IV, Carlisle Way to US 311

Council is requested to adopt a resolution awarding contract for Bid No. 599 for work to complete the portion of the Greenway between the existing dead end at Carlisle Way and the existing underpass at US 311. Purchasing and Engineering Services recommend that contract be awarded to Mustang Enterprises in the amount of \$190,305.00 which is the lowest responsible and responsive bidder meeting expectations.

Adopted the resolution awarding contract to Mustang Enterprises in the amount of \$190,305.00 which is the lowest responsible and responsive bidder meeting specifications.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Resolution No. 952/05-17

Introduced 02/21/05

Adopted 02/24/05

Resolution Book Volume XIV, Page 125

Exhibit Book Volume V, Page 20

050048

Budget Ordinance Amendments - Curb & Gutter on US 311/Penny Road Extension Project/Greenway Enhancement Project

Council is requested to adopt the following ordinances amending the 2004-2005 Budget Ordinance for the following projects:

- Amendment for Construction - Curb & Gutter on US 311 \$ 475,000
(North Main Street from Oxford Place) to south of Hartley Drive

Ordinance No. 6217/05-08

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 114

- Amendment for Penny Road Extension Project \$616,000
(NC 68 to new Penny Road in Premier Center)

Ordinance No. 6218/05-09

Introduced 02/21/05

adopted 02/24/05

Ordinance Book Volume XIV, Page 115

- Amendment for Greenway Enhancement Project \$366,080
(Marsden Road to University Park)

Ordinance No. 6218/05-10

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 116

Adopted the preceding ordinances amending the FY 2004-2005 Budget.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that these budget ordinance amendments be adopted. The motion carried unanimously. (9-0 vote)

050050

Capital Project Ordinances - General Obligation Projects

Council is requested to adopt the following Capital Project Ordinances resulting from the citizens voting on November 2, 2004.

- Firefighting Facilities \$6,500,000

Ordinance No. 6220/05-11

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 117

- Parks & Recreation Facilities \$5,500,000

Ordinance No. 6221/05-12

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 118

- Parks & Recreation Facilities \$2,500,000

Ordinance No. 6222/05-13

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 119

- Library Facilities \$6,000,000

Ordinance No. 6223/05-14

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 120

- Streets & Sidewalks \$34,500,000
Ordinance No. 6224/05-15
Adopted 02/24/05
Ordinance Book Volume XIV, Page 121
Introduced 02/21/05
- Gateway Improvements \$3,250,000
Ordinance No. 6225/05-16
Adopted 02/24/05
Ordinance Book Volume XIV, Page 122
Introduced 02/21/05

Adopted the preceding Capital Project Ordinances.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that these ordinances be adopted. The motion carried unanimously. (9-0 vote)

050049

Resolution - NCDOT Grant Agreement - Mobile Digital Cameras for Paratransit Vans

Council is requested to adopt resolution authorizing the City Manager to execute agreement with the North Carolina Department of Transportation providing funding in the amount of \$30,000 for the purchase of mobile digital cameras for the paratransit vans to enhance on-board security of passengers and drivers. The North Carolina Department of Transportation will reimburse the City 90% of the cost of the project with the City of High Point being responsible for the 10% local match. The estimated local match will be \$3,000.

Adopted resolution authorizing the City Manager to execute agreement with the North Carolina Department of Transportation providing funding in the amount of \$30,000 for the purchase of mobile digital cameras for the paratransit vans to enhance on-board security of passengers and drivers.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Resolution No. 953/05-18
Adopted 02/24/05
Resolution Book Volume XIV, Page 126
Introduced 02/21/05

Exhibit Book Volume V, Page 21

050058

Justice Assistant Grant Funds

City Council is requested to approve and accept \$369,124.00 in Justice Assistance Grant funds and approve the City of High Point to serve as the lead agency which entails application, publicity, and reporting of funds for the City of Greensboro, Guilford County and the City of High Point.

Approved the acceptance of \$369,124.00 in Justice Assistance Grant funds and approved the City of High Point to serve as the lead agency for grant.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously. (9-0 vote)

Exhibit Book Volume V, Page 22

Public Safety Committee

050047

Fire Department Merger Agreements - Colfax Volunteer Fire Department/Deep River Fire Protection Association/City of High Point Fire Department

Council is requested to approve the agreements merging the Colfax Volunteer Fire Department and the Deep River Fire Protection Association with the Fire Department of the City of High Point effective July 1, 2005 and authorize the City Manager to execute the agreements.

This item was discussed in a Public Safety Committee meeting held Wednesday, February 9, 2005 at 3:30 p.m. Merger of these fire departments has been determined to be necessary due to past annexations and less revenue available each year for Colfax and Deep River. The fire chiefs from these departments have met and negotiated the agreements to be effective July 1, 2005.

Approved the Fire Department Merger Agreements with Colfax Volunteer Fire Department and Deep River Fire Protection Association.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously. (9-0 vote)

Exhibit Book Volume V, Page 23

Public Services Committee

050024

Public Hearing - WCA Waste Corporation - Transfer of MRR Franchise

Monday, February 7, 2005 at 5:30 p.m. was the date established to received for the first reading to receive public comments on the transfer of the MRR of High Point Franchise for the operation of a sanitary landfill for construction and demolition debris to the WCA Waste Corporation. The second reading was held Monday, February 21, 2005 at 4:45 p.m.

Note: First Reading: February 7, 2005

Second Reading: February 21, 2005

Public Hearing: First Reading February 7, 2005

The public hearing regarding this matter was held on Monday, February 7, 2005 at 5:30 p.m. This is the 1st Reading for the transfer of the MRR Franchise to WCA; a second reading is also required.

City Attorney Fred Baggett reviewed the background information with Council. He explained that WCA (Waste Corporation of America) is purchasing the construction and demolition landfill located on Riverdale Road. In order to complete the sale, the City Council must hold a public hearing and consider approval of transferring the franchise agreement from MRR to WCA.

Staff is recommending approval of the transfer of the franchise.

At this time, Chairwoman Sims opened the public hearing and asked if there were any citizens present so speak in favor of the request.

Tom Terrell, Attorney representing MRR and WCA, spoke in favor of the transfer and was present to answer any questions and/or concerns of Council.

Chairwoman Sims then asked if there were any other comments in favor. There being none, she asked if there were any opposition comments. There being no opposition, the public hearing was declared closed.

Action was taken at this time, to place this matter on the February 21st Agenda for the second reading prior to final approval.

Public Hearing: Second Reading February 21, 2005

Note: This is the Second Reading for the request from WCA (Waste Corporation of America) for transfer of the MRR Franchise for operation of a sanitary landfill for construction and demolition debris. The public hearing and First Reading regarding this matter was held on Monday, February 7, 2005 at 5:30 p.m.

At this time, Chairwoman Sims provided an opportunity to those desiring to speak. No one was present to speak in favor of or in opposition to this request.

This matter was placed on today's Agenda with a favorable recommendation for approval.

Approved the transfer of the MRR Franchise to WCA (Waste Corporation of America).

Exhibit Book Volume V, Page 24

Planning & Development Committee

050052

Major Amendment to CUP 98-18 - Presbyterian Homes, Inc.

A Major Amendment request by Presbyterian Homes Inc. to include "Day Care Center, Adult (30 or more)" and "Day Care Center, Child (30 or more)" as permitted uses. The site is approximately 127 acres lying along the west side of Sandy Ridge Road, approximately 800 feet south of the intersection of Kendale Road.

The public hearing regarding this matter was held on Monday, February 21, 2005 at 5:30 p.m.

Herb Shannon of Planning and Development gave an overview of the staff report as follows.

**CITY OF HIGH POINT
DEPARTMENT OF PLANNING AND DEVELOPMENT**

**STAFF REPORT
MAJOR AMENDMENT TO CONDITIONAL USE PERMIT 98-18
January 25, 2005**

Applicant/Owner: Presbyterian Homes Inc.

Proposal: The applicant is requesting to amend the Condition I.A. of the Conditional Use Permit (98-18) to add the following uses:

1. Day Care Center, Adult (30 or more)
2. Day Care Center, Child (30 or more)

Site Information

Location	Lying along the west side of Sandy Ridge Road, approximately 800 ft south of the intersection of Kendale Road. The site is also known as Guilford County Tax Parcel 494-1-1.
Site Acreage	Approximately 127± acres
Current land use	River Landing, a mixed-use retirement facility consisting of a congregate care facility, nursing & convalescent home, twin homes, and golf course.
Physical Characteristics	The site has a moderately sloping to severely sloping terrain. An intermittent stream runs from east to west through the middle of the site and through the northwestern and southwestern quadrants of the site. A perennial stream (West Fork of the Deep River) runs along the western boundary of the site. The various intermittent streams converge on the western third of the site and flow westward into the West Fork of the Deep River. The steeper terrain of the site is along the various streams.
Prox. to Water & Sewer	The site is currently served by City utilities.
Stormwater/ Drainage	The site is subject to the Oak Hollow Lake General Watershed Area requirements of the water supply watershed regulations.

High Point City Council		Oak Hollow Lake General Watershed Area (GWA).	
Overlay Districts		The site is within Zone 4 of the Airport Overlay District.	
Site Access & Street Classification			
Street Name		Classification	Approximate Frontage
Sandy Ridge Road		Major Thoroughfare	900 ft.
Traffic Impact Analysis (TIA)		A TIA is not required for this request.	
Surrounding Area Zoning and Current Use			
North	AG CU RM-5	Agricultural District (Guilford County) Conditional Use; Residential Multifamily-5 District	Undeveloped parcels and single family dwellings
South	AG CU RS-9 PI	Agricultural District (Guilford County); Residential Single-Family-9 District Public Institutional District	Undeveloped parcels and single family dwellings
East	AG	Agricultural District (Guilford County)	Undeveloped parcels and single family dwellings
West	AG	Agricultural District (Guilford County)	Single family dwellings and undeveloped parcels

School District Information

Not applicable to this zoning case.

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation	The site has a Low Density Residential land use designation, which is primarily intended for single-family detached dwellings on individual lots. Densities not to exceed 5 dwelling units per acre.
Relevant Land Use Plan Goals, Obj. & Policies	Objective 3: Provide opportunities for an adequate supply of affordable housing at appropriate locations convenient to employment, shopping and service areas.
Related Zoning History	This area was zoned Conditional Use Planned Unit Development – Residential in 1998.
Relevant Area Plans	Johnston Street/Sandy Ridge Road Area Plan

Background of request:

A retirement community has been established on this property over the past several years that include conventional multifamily townhomes, as well as a few large buildings with nursing centers and numerous dwelling units. At this time the applicant is proposing to operate a daycare facility in an existing space within one of the buildings. The applicant has stated that this service would be primarily intended to serve employees and residents (who may wish to place visiting grandchildren in daycare, for instance), although the use may be open to the general public.

Issues:

Staff has no issues with this request. The proposed use would be complimentary to the existing residential and health care uses and would allow for the provision of an on-site service for employees and residents, and to the general public. The future construction of any new building would require an amendment to the Unified Development Plan, which would require City Council approval.

Findings:

The Development Ordinance requires that certain findings be made before a zoning map amendment and Conditional Use Permit may be approved. In addition, there are specific findings for approval of a Planned Unit Development. Based on the applicant's submittal and proposed conditions, as they exist on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds

Compliance	<ul style="list-style-type: none"> ➤ The amount of traffic could increase if a daycare of significant size is opened, however, the existing traffic circulation system should be adequate and any new buildings constructed would require approval by the City Council. ➤ Any day care facility will be required to meet all applicable City, state and federal standards.
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That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds

Compliance	The impact on adjoining properties should be minimal, as the current proposal does not include the construction of any new buildings.
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That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds

Compliance	The current proposal does not significantly alter the existing character of the development, as it does not include the construction of any new structure. The proposal would allow a daycare to be provided that would serve the needs of the site, which is in keeping with the purpose and intent of the residential PUD.
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Recommendation:

Staff recommends approval.

At this time, Chairman Bencini opened the public hearing and asked if there were any comments in support of this request.

Jim Hundley, attorney representing the applicant, spoke in favor of the request. He also recognized Tim Webster of Presbyterian Homes. Mr. Hundley reiterated that the intended uses of the existing facility is to add what they consider to be complimentary and auxiliary types of services--primarily for the employees, but also for the community (i.e. child daycare and adult daycare facility).

Mr. Hundley noted that the hours of operation for the daycare facility would be during normal business hours (7:00 a.m. to 6:00 p.m.) and it is not anticipated at this time to operate during nighttime hours.

Chairman Bencini asked if there was anyone else present that would like to speak in favor of the request. There being none, he asked if there was anyone present to speak in opposition. There being no opposition comments, the public hearing was declared closed.

Following the close of the public hearing, the Committee recommended this matter be placed on today's Agenda with a favorable recommendation.

Approved Major Amendment to CUP 98-19 based on the Findings of Fact as outlined in the staff report and as requested by Presbyterian Homes, Inc.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously. (9-0 vote)

Exhibit Book Volume V, Page 26

050034

Heart of the Triad Resolution

Approval of a resolution in support of developing regional strategies and a development plan for the central area of the Piedmont Triad region.

A presentation was made to City Council regarding the Heart of the Triad planning concept by area planning directors on February 7, 2005. At that time, Council expressed concerns regarding the language and asked if some minor modifications could be made to the language.

Staff submitted a revised resolution at the February 21, 2005. Council concurred with the changes.

Adopted the Resolution in Support of the Heart of the Triad planning concept as submitted and revised by staff.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Resolution No. 954-05-19

Introduced 02/21/05

Adopted 02/24/05

Resolution Book Volume XIV, Page 127

Exhibit Book Volume V, Page 25

050053

Ordinance - Rezoning Case 05-03 - W. English Road - Griffin

a. Conditional Use Heavy Industrial (CU-HI) District

A request by David Griffin, Sr. and Marylene Griffin to rezone approximately 3.97 acres from the Highway Business (HB) District to a Conditional Use Heavy Industrial (CU-HI) District. The site is lying along the south side of W. English Road, approximately 1,300 feet west of Westchester Drive (2705 & 2707 W. English Road).

b. Conditional Use Permit 05-03

A request by David Griffin, Sr. and Marylene Griffin for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, lot combination, development & dimensional standards, vehicular access, fencing/walls or similar barriers and landscaping.

The joint public hearing regarding this matter and related matter 050054 Special Use Permit 05-01- W. English Road- Griffin was held on Monday, February 21, 2005 at 5:30 p.m.

Herb Shannon of Planning and Development gave an overview of the staff report as follows:

**CITY OF HIGH POINT
DEPARTMENT OF PLANNING AND DEVELOPMENT**

**STAFF REPORT
ZONING CASE 05-03
January 25, 2005**

Applicant/Owner:		
David H. Griffin, Sr. and Marylene F. Griffin		
Proposal: To rezone 3.97 ± acres.	From: GB General Business District To: CU-HI Conditional Use Heavy Industrial District	
Site Information		
Location	Lying along the south side of W. English Drive, approximately 1,300 feet west of Westchester Drive (2705 & 2707 W. English Drive). The site is also known as Guilford County Tax Parcel 263-1-9 and 263-1-4(portion).	
Site Acreage	Approximately 3.97± acres.	
Current land use	Undeveloped except for an existing billboard.	
Physical Characteristics	The site is relatively flat and gently slopes from the W. English Drive frontage southward to a stream that runs through this lot from east to west.	
Prox. to Water & Sewer	City utilities are available in this area to serve this site. City waterline run along W. English Drive. City sewer line runs through the southern boundary of this tax parcel parallel to the stream.	
Stormwater/Drainage	The site is not within a watershed area and no on-site drainage structure is required.	
Overlay Districts	None	
Site Access & Street Classification		
Street Name	Classification	Approximate Frontage
W. English Road	Major Thoroughfare	287 ft.

High Point City Council		Regular Meeting Minutes	
Traffic Impact Analysis (TIA)		A TIA is not required.	
Surrounding Area Zoning and Current Use			
North	GB	General Business District	Single family dwellings
South	HI	Heavy Industrial District	Undeveloped
East	HB	Highway Business District	Undeveloped
West	HB	Highway Business District	Auto salvage yard

School District Information

Not applicable

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation	The site has a Local/Convenience Commercial land use map designation. This classification is intended for moderate-intensity convenience retail or service uses, generally serving small, local neighborhoods.
Relevant Land Use Plan Goals, Obj. & Policies	The following goals and objectives of the Land Use Plan are relevant to this request: Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the City and its planning area. Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses; Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.
Relevant Area Plans	None
Related Zoning History	None

Background Information

This case is associated with Special Use Permit 05-01 to permit a salvage yard/auto parts/scrap processing use upon the requested rezoning area and the southern portion of this tax parcel (263-1-4), which is already zoned HI and is not included in this zoning request. There is an auto parts salvage yard use upon the abutting parcel west of the zoning site. Based upon review of aerial photographs from 1958 it appears that the auto parts salvage yard activities on the abutting parcel existed prior to the annexation of this area into the City of High Point in January 1960.

Issues:**Major Issues**❖ **Preservation of the initial frontage area of this corridor for commercial development:**

The site is located along W. English Road, which is the southwestern entrance corridor into the City of High Point. This is an area in transition with a mixture of industrial, commercial and residential uses. However, the long-term goal, as established by the Land Use Plan, is

for the frontage area of W. English Drive, 200 to 400 feet from roadway, to develop as a commercial corridor. Thus, the land use plan designates this corridor as Local/Convenience Commercial. Zoning along the corridor consist primarily General Business (GB) and Highway Business (HB) Districts. As previously noted, the site abuts and existing non-conforming auto salvage yard. There is a certain element of practicality in having similar uses next to each other rather than introducing such uses into another area. The issue of concern is the allowance of such uses without sacrificing the long-term goals of the land use plan. To address this issue, the applicant has offered a condition pertaining to permitted uses to only allowing a salvage yard use and those HI District uses that are also permitted in the HB District.

Minor Issues

❖ None

Findings:

Section 9-3-13 of the Development Ordinance requires that certain findings be made before a zoning map amendment and Conditional Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds

Compliance	❖ The applicant has offered to restrict the site to only one access point from W. English Drive.
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That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds

Compliance	<p>❖ To reduce the potential for industrial development that may substantially differ from uses upon surrounding properties, the applicant has offered to allow a Salvage Yards/Auto Parts or Scrap Processing Use and only those HI District uses that are also permitted in the HB District.</p> <p>❖ The proposed dimensional standards pertaining to street setback, minimum street frontage and minimum interior setbacks will be consistent with those required on adjacent HB District properties.</p>
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That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds

Compliance	<p>❖ To protect the appearance and character along this corridor and commercial areas, the proposal will not allow industrial uses.</p> <p>❖ As conditioned the allowable uses, except for auto parts salvage yard, will be the same as allowed in the current HB District. This further insures that development of the site will be generally in harmony with the area and in conformance with the land use plan.</p>
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Recommendation: Staff recommends approval

Based upon the conditions in the attached Conditional Use Permit application and the above noted preliminary findings of facts, staff finds that the request is generally consistent with the surrounding zoning and development in this area, and in compliance with the goals and objectives of the Land Use Plan.

The Department of Planning and Development recommends approval of the requested Conditional Use Heavy Industrial (CU-HI) District and the accompanying Conditional Use Permit. *The Planning and Zoning Commission met on January 25, 2005 and also unanimously recommended approval of Zoning Case 05-05 with Conditional Use Permit 05-05 as submitted.*

At this time, Chairman Bencini opened the public hearing and asked if there were any comments in favor of the request.

Council Members voiced the following concerns:

Existing billboard on site

Mr. Shannon explained that even though there is an existing billboard on the site, the applicant has offered in their permit to remove the billboard within 30 days of the lease expiration (which is in February 2006).

Proximity to the Site of Another Nonconforming Use

Mr. Shannon noted that the planning staff looked at this case by itself on its own merits and the decision was not based upon the other use being there.

Protection of the Environment, Water Quality of the Stream, Groundwater, etc..

Mr. Mark Terry, 10837 North Main Street, Archdale, professional land surveyor representing the applicant, spoke in favor of the request. He addressed Council regarding these concerns. He explained that he didn't believe they would accept any vehicles until the fluids have been entirely removed. He pointed out that any stream or movement of water would be well behind the line they have identified for the portion of the property that will be used for storage. They plan to use property up to the 100-year flood plain and will stay completely out of this area.

Fencing

Mr. Terry, on behalf of the applicant, offered an additional condition to put up an eight-foot fence along the entire perimeter of the site.

Railspur behind the property

Mr. Terry reported that, to the best of his knowledge, the spur is not there and it is definitely not in use.

Nature of the Business?

Roger Cotton, representing the applicant, D. H. Griffin, noted that some cars would be stripped--depending on the demand and the skeletons of the cars would wind up in Kernersville as sold as scrap. He explained that it would be a recycle operation in the truest sense and they would have many outlets to dispose of those vehicles in the appropriate manner where it would benefit industry as well as the community.

Special Use Permit- Operation of Business as a Salvage Yard

Lee Burnette explained that the Special Use Permit would run with the land and that another business operator could purchase it and operate under the regulations/laws of the city and the conditions as spelled out in the permit. He also reported that if the property ceases operation as a salvage yard for period of 18 months, then it would lose its Special Use status. It was noted that in the case of the property being abandoned, other city ordinances/regulations would then apply since it would not be a valid operating business.

Chairman Bencini then asked if there were any additional comments in favor of or in opposition to the requests. There were no citizens present to speak in opposition. There being no further comments, the public hearing was declared closed.

Following the close of the public hearing, the Committee recommended the matter be placed on Thursday's Agenda with a favorable recommendation for approval of Rezoning Case 05-03 providing for the rezoning of this property from the Highway Business (HB) District to a Conditional Use Heavy Industrial (CU-HI) District and for approval of Conditional Use Permit 05-03 based on Findings of Fact as outlined in the staff report.

At today's meeting, Thursday, February 24, 2005, Council took the following action regarding this request.

1. Adopted ordinance providing for the rezoning of this property amending the official zoning map of the city; and
2. Approved Conditional Use Permit 05-03 based on the Findings of Fact as outlined in the staff report.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Ordinance No. 6226/05-17

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 122

Exhibit Book Volume V, Page 27

050054

Special Use Permit 05-01 - W. English Road - Griffin

A request by David Griffin, Sr. and Marylene Griffin for a Special Use Permit to allow a Salvage Yard, Auto Parts or Scrap Processing use and accessory activities consisting of sale of used auto parts and disassembly, storage and sale of used auto parts. The site is lying along the south side of W. English Road, approximately 1,300 feet west of Westchester Drive (2705 & 2707 W. English Road).

The joint public hearing regarding this matter and related matter 050053 Ordinance- Rezoning Case 05-03- W. English Road- Griffin was held on Monday, February 21, 2005 at 5:30 p.m.

Note: For specific comments made at the public hearing regarding this matter, please refer to 050053 Ordinance- Rezoning Case 05-03- W. English Road- Griffin.

Herb Shannon of Planning & Development gave an overview of the staff report as follows:

**CITY OF HIGH POINT
DEPARTMENT OF PLANNING AND DEVELOPMENT**

**STAFF REPORT
SPECIAL USE PERMIT 05-01
January 25, 2005**

Applicant/Owner: David H. Griffin, Sr. and Marylene F. Griffin	
Proposal:	A Special Use Permit request to allow a Salvage Yard, Auto Parts or Scrap Processing (<i>SIC 5015 & 5093</i>) and accessory activities consisting of sale of used auto parts and disassembly, storage and sale of used auto parts.
Site Information	
Location	<u>Lying along the south side of W. English Drive, approximately 1,300 feet west of Westchester Drive (2705 & 2707 W. English Drive).</u> The site is also known as Guilford County Tax Parcel 263-1-9 and 263-1-4.
Site Acreage	Approximately 7.5± acres.
Current land use	Undeveloped except for an existing billboard.
Physical Characteristics	The site is relatively flat and gently slopes from the W. English Drive frontage southward to a stream that runs through the site from east to west.
Prox. to Water & Sewer	City utilities are available in this area to serve this site. City waterline runs along W. English Drive. City sewer line runs through the southern boundary of the site along the stream.
Stormwater/Drainage	The site is not within a watershed area and no on-site drainage structure is required.
Overlay Districts	None

Site Access & Street Classification			
Street Name	Classification	Approximate Frontage	
W. English Road	Major Thoroughfare	287 ft.	
Traffic Impact Analysis (TIA)		A TIA is not required.	
Surrounding Area Zoning and Current Use			
<u>North</u>	GB	General Business District	Single family dwellings
<u>South</u>	HI	Heavy Industrial District	Undeveloped
<u>East</u>	HB	Highway Business District	Undeveloped
	HI	Heavy Industrial District	
<u>West</u>	HB	Highway Business District	Salvage Yard, Auto Parts or Scrap Processing
	HI	Heavy Industrial District	

School District Information

Not applicable

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation	<p>The initial 400 feet of dept of the site has a Local/Convenience Commercial land use map designation. This classification intended for moderate-intensity convenience retail or service uses, generally serving small, local neighborhoods.</p> <p>The southern 2/3's of the site has al Heavy Industrial land use map designation. This classification includes the whole range of assembling, fabricating, and heavy manufacturing activities, some of which have significant environmental impacts.</p>
Relevant Land Use Plan Goals, Obj. & Policies	<p>The following goals and objectives of the Land Use Plan are relevant to this request:</p> <p>Goal #1: Ensure that development respects the natural environment;</p> <p>Goal #5: Promote an urban growth pattern that occurs in an orderly fashion and conserves the land resources of the City and its planning area.</p> <p>Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;</p> <p>Obj. #11. Enhance the aesthetic appearance of High Point by preserving the scenic quality of its major gateway streets and travel corridors and by providing appropriate landscaped buffers and transitional uses between low and high-intensity land uses.</p>
Relevant Area Plans	<u>None</u>
Related Zoning History	None

Background Information::

This case is associated with Zoning Case 05-03 which is to rezone the initial 400 feet of this site, as measured from W. English Drive, from its current Highway Business (HB) District to a Conditional Use Heavy Industrial (CU-HI) Distinct to allow the salvage yard/auto parts/scrap processing use upon the front part of this site.

The site is located along W. English Drive, which is the southwestern entrance corridor into the City of High Point. This is an area with a mixture of uses consisting of industrial, commercial and residential uses. However, the long-term goal, as established by the Land Use Plan, is for the frontage area of W. English Drive, 200 to 400 feet from roadway, to be developed as a commercial corridor. Thus, the land use plan designates this corridor as Local/Convenience Commercial. Current zoning in the corridor is primarily General Business (GB) and Highway Business (HB) Districts.

There is an auto parts salvage yard on the abutting parcel west of the zoning site. Based upon review of the aerial photographs from 1958 it appears that the auto parts salvage yard activities on the abutting parcel to the west existed prior to the annexation of this area into the City of High Point in January 1960.

The applicant desires to establish a Salvage Yard, Auto Parts or Scrap Processing use upon this site. This use is only permitted in the Agricultural (AG) or Heavy Industrial (HI) District and only with a Special Use Permit approval. In addition to the required Special Use Permit findings, the Salvage Yard, Auto Parts or Scrap Processing use is also required to meet the following criteria:

- The minimum area required to establish a salvage yard shall be five (5) acres.
- An opaque fence of suitable screening material approved by the Enforcement Officer and of uniform construction, a minimum of eight (8) feet in height shall be required around the perimeter of the activity. Such fencing shall be located between the salvage yard and all required planting yards.
- Use Separation: No salvage yard shall be located within three hundred (300) feet of any residence (existing or under construction) at the time of its initiation.

Issues:

Major Issues

- ❖ The proposed Special Use Permit request and associated site plan must together meet all of the above noted Development Ordinance criteria for siting of this use. As currently submitted the screening criterion has not been fully addressed. The Development Ordinance requires that the use have an opaque fence of suitable screening material approved by the Enforcement Officer and of uniform construction, a minimum of eight (8) feet in height around the perimeter of the activity (fence must be opaque around the entire perimeter of salvage yard). The applicant is proposing to use the abutting property's existing fence (fence of the existing non-conforming salvage yard use) to the west to meet this criteria along this side of the parcel. This fence is only six (6) feet high and is not opaque. In order to meet this requirement, the existing fence must to be upgraded or a new opaque fence shall be required to be placed in this area.

Minor Issues

- ❖ None

Findings:

A special use is an additional use to those permitted by right in a zoning district. Such a use requires analysis for its potential impact on the proposed site and its impact on surrounding properties. The purpose of the Special Use Permit process is to allow the Planning and Zoning Commission and City Council an opportunity to perform this analysis.

Section 9-3-14 of the Development Ordinance requires that certain findings be made before a Special Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they exist on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

That the use will not materially endanger the public health or safety if located where proposed; staff finds

Compliance	<ul style="list-style-type: none"> ❖ The applicant has offered to restrict the site to only one access point from W. English Drive. ❖ There shall be no internal vehicular or pedestrian connection to the existing non-conforming salvage yard use to the west of this site.
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That the use meets all required standards, conditions and specifications of the Development Ordinance, and any additional restrictions imposed pursuant to Section 9-3-14(d) Greater Restrictions; staff finds

Compliance subject to amendment	<ul style="list-style-type: none"> ❖ The proposed request meets or exceeds all ordinance requirements except for fencing standards. ❖ For permit approval all fencing must be a minimum of eight (8) feet high and opaque as specified in the Ordinance.
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That the use will not substantially injure the value of adjoining or abutting property, or that it is a public necessity; staff finds

Compliance	<ul style="list-style-type: none"> ❖ Beyond the siting criteria of the Development Ordinance for this type use, the applicant has offered the following conditions to further insure that the use will be generally compatible with surrounding uses and not substantially affect property values of surrounding properties. <ul style="list-style-type: none"> • No storage, display, disassembly activity, storage of parts, or inoperable vehicles shall be permitted outside the fence storage area. • There shall be no vehicular or pedestrian connection to the existing non-conforming salvage yard use to the west of this site. • No storage of items above the fence height.
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That the location and character of the use shall be in harmony with the area in which it is located and in general conformity with the plan of development of the city and its environs; staff finds

Compliance	<ul style="list-style-type: none"> ❖ The Development Ordinance notes that the fenced-in disassembly and storage area of such uses are to be located at least 300 feet from any residential use. Due to the presence of existing residences along the north side of W. English Drive, this storage will be approximately 200 feet into the site. Thus the goal of preserving the frontage area along this portion of W. English Drive for commercial uses is being met. ❖ Ordinance requirement and Special Use Permit conditions will ensure that salvage yard vehicles are not stored too near to the English Road frontage. Thus the initial 200 to 250 feet of the site's depth will consist of uses generally in harmony with the Land Use Plan.
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Recommendation: Staff recommends approval with amendments.

The Department of Planning and Development recommends approval provided the site plan is amended to meet the Ordinance fencing requirements. Otherwise, the permit should be denied. *On January 25, 2005, the Planning & Zoning Commission met and unanimously recommended approval of Special Use Permit 05-01 with the notation that it meet the ordinance fencing requirement of placing an eight-foot (8 ft.) fence around the perimeter of the salvage yard as recommended by staff.*

Based upon that amendment the staff finds that the request will be generally consistent with the surrounding zoning and development in this area and generally in compliance with the goals and objective of the Land Use Plan.

Note: *The applicant has agreed to the condition to put up an 8-foot fence around the perimeter of the site.*

Following the close of the public hearing, the Committee recommended this matter be placed on Today's Agenda with a favorable recommendation for approval of Special Use Permit 05-01 with the added condition that the applicant has agreed to put up an 8-foot fence around the perimeter of the site.

Approved Special Use Permit 05-01 as requested by David Griffin, Sr. and Marylene Griffin based on the Findings of Fact as outlined in the staff report and with the added condition

that the applicant will erect an 8-foot fence around the perimeter of the site in accordance to the screening criterion in the Development Ordinance.

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be approved. The motion carried unanimously. (9-0 vote)

Exhibit Book Volume V, Page 28

050055

Rezoning Case 05-05 - W. English Road - Francisco Pineda

a. Conditional Use General Business (CU-GB) District

A request by Francisco Pineda to rezone approximately 1.93 acres from the Heavy Industrial (HI) District and Residential Single Family-7 (RS-7) District to a Conditional Use General Business (CU-GB) District. The site is lying at the northwestern corner of W. English Road and Burton Road.

b. Conditional Use Permit 05-05

A request by Francisco Pineda for approval of an accompanying Conditional Use Permit with conditions pertaining to permitted uses, lot combination, landscaping, vehicular access and right-of-way improvements.

The public hearing regarding this matter was held on Monday, February 21, 2005 at 5:30 p.m.

Herb Shannon of Planning & Development gave an overview of the staff report as follows:

**CITY OF HIGH POINT
DEPARTMENT OF PLANNING AND DEVELOPMENT**

**STAFF REPORT
ZONING CASE 05-05
January 25, 2005**

Applicant: Francisco Pineda		Owner: <u>Aerochem Corporation.</u>	
Proposal:	To rezone two tax parcels totaling 1.97± acres.	From:	<u>HI</u> <u>Heavy Industrial District</u>
			<u>RS-7</u> Residential Single Family-7
		To:	<u>CU-GB</u> <u>Conditional Use General</u>
			<u>Business District</u>
Site Information			
Location	Lying at the northwestern corner of W. English Drive and Burton Road. The site is also known as Guilford County Tax Parcel 259-12-6 and 259-12-10.		
Site Acreage	Approximately 1.97± acre.		
Current land use	Vacant industrial building.		
Physical	The site is relatively flat with some areas of mildly sloping terrain.		

Characteristics	
Prox. to Water & Sewer	<u>The site is currently served by City utilities.</u>
Stormwater/ Drainage	The site is not within a watershed area; stormwater controls are not required.
Overlay Districts	<u>None</u>

Site Access & Street Classification

Street Name	Classification	Approximate Frontage
W. English Road	Major Thoroughfare	400 ft.
Burton Road	Major Thoroughfare	100 ft.
Ridgecrest Drive	Major Thoroughfare	505 ft.
Traffic Impact Analysis (TIA)	A TIA is not required due to the size of this site, requested zoning district and allowable uses.	

Surrounding Area Zoning and Current Use

<u>North</u>	GB RS-7	General Business District Residential Single Family-7 District	Church and automotive repair facility
<u>South</u>	HI	Heavy Industrial District	Motor vehicle sales and automotive repair facility
<u>East</u>	HI	Heavy Industrial District	Automotive repair facility, coin operated laundry and vacant industrial building
<u>West</u>	LI RS-7	Light Industrial District Residential Single Family-7 District	Church, multifamily dwellings and single family dwellings

School District Information

Not applicable

Relevant Land Use Policies and Related Zoning History

Land Use Map Designation	<p>Properties fronting along W. English Road have a Local/Convenience Commercial land use designation, which is generally intended for moderate-intensity convenience retail, or service uses, generally serving small, local neighborhoods.</p> <p>Properties fronting along Ridgecrest Drive have a Ridgecrest Drive has a Low-Density Residential designation, which primarily includes single-family detached dwellings on individual lots. Development densities in these areas shall not exceed five dwelling units per gross acre</p>
Relevant Land Use Plan Goals, Obj. & Policies	<p>The following goals and objectives of the Land Use Plan are relevant to this request:</p> <p>Goal #2: Encourage development that enhances and preserves established neighborhoods;</p> <p>Obj. #9. Where feasible and appropriate, provide a transition in land uses between more and less intensive land uses;</p>
Relevant Area Plans	None
Related Zoning History	None

Issues:

Based upon the Land Use Plan and Land Use Map designations for the site and surrounding area, the requested zoning and conditions offered by the applicant, staff has no issues of concern with this request.

Major Issues

- ❖ None

Minor Issues

- ❖ None

Findings:

Section 9-3-13 of the Development Ordinance requires that certain findings be made before a zoning map amendment and Conditional Use Permit may be approved. Based on the applicant's submittal and proposed conditions, as they existed on the date of this report, the Planning and Development Department offers the following comments relative to these required findings.

That the development of the property in accordance with the proposed conditions will not materially endanger the public health or safety; staff finds

Compliance	<ul style="list-style-type: none"> ❖ The applicant has offered conditions pertaining to limiting the location and number of vehicular access points from W. English Road and Ridgecrest Drive. ❖ The applicant has offered to dedicate right-of-way for future roadway improvements to Ridgecrest Drive.
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That the development of the property in accordance with the proposed conditions will not substantially injure the value of the adjoining or abutting property; or that the development is a public necessity; staff finds

Compliance	<ul style="list-style-type: none"> ❖ The proposal consists of reducing the zoning intensity from the Heavy Industrial (HI) to a Conditional Use General Business (CU-GB) District for the majority of the site. ❖ This request reduces the intensity of permitted uses and reduces the number of uses that have the potential to negatively affect the image, value and enjoyment of the abutting residential neighborhood along Ridgecrest Drive. ❖ The applicant has offered to provide a wider street yard with 50% evergreen shrubs along the Ridgecrest Drive frontage of the zoning site as viewed from the adjacent residential dwellings.
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That the location and character of the development, in accordance with the proposed conditions, will be in harmony with the area in which it is to be located and in general conformity with the plan of development of the City of High Point and its environs; staff finds

Compliance	<ul style="list-style-type: none"> ❖ The zoning site is at a transition area between Light Industrial, Heavy Industrial, Local Convenience Commercial and Low Density Residential classifications. The decrease in zoning intensity proposed from the HI District to a CU-GB District eliminates most industrial uses that would have major adverse effects on the abutting residential neighborhood. ❖ The proposal would provide assurances that the transition of uses would occur at streets rather than in the middle of a block. ❖ The request does not intrude into any existing residential neighborhood and the conditions offered for higher landscaping standards
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	along Ridgecrest Drive helps soften the contrast between commercial and residential uses.
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Recommendation:

Staff recommends approval

Based upon the conditions in the attached Conditional Use Permit application and the above noted preliminary findings of fact, staff finds that the request is generally consistent with the surrounding zoning and development in this area, and in compliance with the goals and objectives of the Land Use Plan.

The Department of Planning and Development recommends approval of the requested Conditional Use General Business (CU-GB) District and the accompanying Conditional Use Permit. *On January 25, 2005, the Planning & Zoning Commission met and also unanimously recommended approval of Zoning Case 05-05 and Conditional Use Permit 05-05.*

Mayor Pro Tem Alexander asked if staff had received any phone calls from the church regarding this matter and also inquired about whether the applicant had offered any screening between their property development and the church. Mr. Shannon reported that no phone calls have been received, just general inquiries from people driving by wondering what's happening to the old Armory Building. Regarding the screening, Mr. Shannon explained that there was one condition addressing screening which could be found on Page 2 of the Conditional Use Permit Application.

Council Member Sims inquired about an access on Ridgecrest and the types of trucks that would be using the road. Mr. Shannon replied that the applicant could better address specific proposals with the site, but they had offered a condition for the access on Ridgecrest Drive which would be for automobiles only. He noted that there is also a condition that all truck ingress and egress would be from West English Drive.

At this time, Chairman Bencini opened the public hearing and solicited comments in favor of the request.

Beth Koonce, 300 N. Main Street, attorney representing the applicant, spoke in favor of the request. She noted that her client, Mr. Francisco Pineda, is a furniture manufacturer in California and also has a showroom in High Point that requires additional space. Ms. Koonce pointed out that the only driveway cut being designed right now is the one for local parking. She also explained that even though they will have plenty of parking, the Shuttle Service for the Furniture Market goes right by this site which they would also have access to.

Mayor Pro Tem Alexander and Chairman Bencini had questions regarding year-round retail sales. Ms. Koonce replied that even though it was in a General Business district, the applicant has not expressed an interest in her to do that.

Mayor Pro Tem Alexander expressed concerns that it might have the tendency to impact the neighbors to the rear on Ridgecrest since automobiles could come and go from that area.

Council Member Faircloth stated he hoped that the showroom would not be allowed to deteriorate in exterior beauty between markets and that that the applicant would maintain the property so that it would be nice looking year round. Ms. Koonce assured Council that

since the renovations to the property would be over a million dollars, she felt certain that the applicant would see the need to protect his investment.

At this time, Chairman Bencini asked if there were any additional comments in favor of the request. There being none, he asked if there were any opposition comments. There being no one present to speak in opposition, the public hearing was declared closed.

Following the close of the public hearing, the Committee recommended this matter be placed on Thursday's Agenda with a favorable recommendation for approval of Rezoning Case 05-05 and accompanying Conditional Use Permit 05-05 based on the Findings of Fact as outlined in the staff report.

As a matter of clarification, Ms. Koonce pointed out that the applicant did agree to dedicate additional right-of-way to achieve thirty-five (35) feet from the centerline of Ridgecrest Drive; the Conditional Use Permit makes reference to twenty-five (25) feet. She also clarified that the applicant has agreed that the rezoning site shall have one (1) point of vehicular access to Ridgecrest Drive, located at least one hundred (100) feet from the intersection of Burton Avenue.

Following the close of the public hearing, the Committee recommended this matter be placed on today's Agenda with a favorable recommendation for approval of Rezoning Case 05-05 and accompanying Conditional Use Permit 05-05 based on the Findings of Fact as outlined in the staff report.

The following action was taken regarding this request.

- 1. Adopted the ordinance providing for the rezoning of this property as requested by the applicant and as recommended by staff amending the official zoning map; and*
- 2. Approved Conditional Use Permit 05-05 based on the Findings of Fact as outlined in the staff report with the following revisions that have been agreed to by the applicant:*
 - to dedicate additional right-of-way to achieve thirty-five (35) feet from the centerline of Ridgecrest Drive; the Conditional Use Permit makes reference to twenty-five (25) feet; and*
 - that the rezoning site shall have one (1) point of vehicular access to Ridgecrest Drive, located at least one hundred (100) feet from the intersection of Burton Avenue.*

A motion was made by Council Member Wilkins, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Ordinance No. 6227/05-18

Introduced 02/21/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 123

Exhibit Book Volume V, Page 29

OWNER: West Bend Home Owners Association (Leroy Sanders, et al)

RELATED ZONING CASE: Not Applicable (within ETJ)

EXISTING ZONING DISTRICT: Residential Single Family – 15 (RS-15)

REQUEST: Voluntary non-contiguous annexation to provide water/sewer, street maintenance and other city services. Acceptance of Cole Avenue within the West Bend Subdivision for street maintenance will not occur until the street meets minimum street standards (see attached assessment).

EFFECTIVE DATE: Upon Adoption

PROPERTY INFORMATION

LOCATION: East side of Hickwood Road abutting Cole Avenue

TAX PARCEL (S): Guilford County Tax Parcel 78-1-47, 56, 61 – 73

SIZE: Approximately 14.68 acres

ACCESS/STREET CLASSIFICATION: Local Street / Cole Avenue

PROXIMITY TO WATER/SEWER: There is water and sewer available in Cole Avenue.

LAND USE: Single family residential

LAND USE PLAN MAP DESIGNATION: Low Density Residential

OVERLAY DISTRICTS: General Watershed Area (GWA)

COST ANALYSIS

West Bend Phase One was reviewed and approved by the City of High Point and then recorded as a residential subdivision in March, 1995. In the summer of 1997 it was discovered the subdivision was not annexed into the City. As a result the residents were notified that their water and sewer rates would double and garbage collection, etc. would cease as of August 1, 1997. The Planning Department attempted to put forth a voluntary satellite annexation petition, to avert increases in the resident's utility bills and the discontinuance of services. A satellite annexation involves land area that is not contiguous to the primary municipal boundary. Per state law all properties within a subdivision must be annexed at the same time when the subdivision is considered a satellite annexation. Unfortunately, of the 11 property owners only 10 would sign the voluntary annexation petition. Today all current property owners have signed a voluntary annexation petition, along with the property owner of land adjacent to the subdivision on the east.

The property owner of the undeveloped 6.39 acre tract at the eastern terminus of Cole Avenue further understands that, along with annexation, improvements to the existing Cole Avenue (see attached memo from Keith Pugh, P.E.) are necessary prior to any development approval for the 6.39 acres. Once the improvements are made to Cole Avenue the City will accept the street for maintenance.

The cost/benefit analysis for this annexation is based on the value of the existing residential homes and an assumption that in the third year additional units will be developed on the eastern 6.39 acres bringing the

total number of units from the existing 11 to a total of 21. Once the additional units are added the cost/benefit is estimated to be about even. The assumptions are based on a home value of \$110,000 per unit.

Public Hearing: February 7, 2005

(transcript)

Mark Schroeder: This is a proposal to annex West Bend Subdivision as well as Chad Meredith's property. It contains Cole Avenue, serving the existing phase I of the development. Chad Meredith's property is to the east of that. Back in 1995, Phase I of West Bend Subdivision was platted and recorded. Two years later in the summer of '97 staff entertained the request for development of Phase II. At that time, we discovered that Phase I was not in the City of High Point. Notices were sent to all the property owners within West Bend notifying them that within two months, we would cease collection of garbage as well as their water and sewer rates would double. Hearing that, the residents of West Bend got together and submitted a petition requesting annexation. Unfortunately at that time, one land owner out of the eleven property owners, was not willing to play along with the request, so therefore, under state law, we could entertain the annexation.

So, what we have today is a renewed interest in developing to the east and we have a completed, valid petition from all the property owners within West Bend Phase I as well as Chad Meredith. And, then we've outlined, based on the proposed values, or the existing values of the subdivision, which are assuming about approximately \$110,000 per unit, an overall projected 5-year revenue cost of about \$9,000 to accomplish this. That's generally basing the assumption on the lower land and home values and the extent of the land or the acreage of the land. It may not accurately represent the true costs associated with providing service to these units. Phase II is proposing ten lots, so we'd have a total of 21 units off of Cole Avenue.

One of the concerns, and it's in your packet in a memo from Keith Pugh. Last week, his staff conducted an inspection assessment of Cole Avenue and generated a punch list of some of the deficiencies in that street. The history on that, oddly enough in 1995, when Phase I was platted, we accepted that right-of-way for maintenance because it met our standards. The visit last week generated five concerns outlined there in the memo, so therefore, we would not accept the maintenance of that right-of-way until these items are addressed.

Chairman Bencini: How did you accept if it wasn't in the city?

Mark Schroeder: Well, the acceptance was based on an actual inspection. When it was discovered that the property was not within the city (two years later), that acceptance had to be invalidated because we didn't have the grounds to accept the street. And, to this date, the state has not accepted that street either.

Chairman Bencini: So, there's been no maintenance on this road whatsoever?

Mark Schroeder: That's right-not since it has been constructed.

Vice-Chair Whitley: And, you're asking us to annex it now?

Mark Schroeder: That's the request is to annex all that property, Phase I and II of this subdivision. But, as part of this annexation, we are not accepting maintenance of that street. And, yes the

street would have to be brought up to standards prior to acceptance-also prior to any approval by TRC of Phase II.

Chairman Bencini: *Mark, at this point, who has the responsibility of looking after that street? The state hasn't accepted....*

Mark Schroeder: *The homeowners I guess.*

Mayor Pro Tem Alexander: *Would there be some connectivity of Cole-to the other stub of Cole?*

Mark Schroeder: *Yes, assuming that the same plan is submitted that was submitted back in 1997. It did call for a proposal of an extension of Cole Avenue to tie into this one. Here's the other Cole Avenue right of way heading out to Penny Road.*

Mayor Pro Tem Alexander: *Will it come around to Briarcliff or Briarcreek as well?*

Mark Schroeder: *No, it would not. This area here is the homeowner's association. They have a retention pond for water quality. I believe the proposal is a cul-de-sac..... There is a representative here from the homeowner's association as well as Chad Meredith.*

Chairman Bencini: *Fred, I've got a question for you. If we were to annex this property with an existing street-does the city have any obligation at that point?*

City Attorney Fred Baggett: *The acceptance of the street is a separate step. Just because it's in the city corporate limits, doesn't mean that it's our street.*

Vice-Chair Whitley: *But doesn't it come under the same standard as the dirt roads that we have to bring up to standard at some point?*

City Attorney Baggett: *There will be requests to do that, but if it's not ours, we're not obligated to do it.*

Mayor Smothers: *So this is essentially just a private street?*

City Attorney Baggett: *Yes, and there's a lot of them around.*

Mayor Pro Tem Alexander: *All right, so it's a private street, so where are the public utilities that serve that....are they in that street?*

Chris Thompson: *They are private and that's a request by public services if it is to be considered for public maintenance then we would add to the list for street repair, sanitary sewer and storm sewer and would have it televised so we would know the condition.*

Chairman Bencini: *Would you also suggest that the cost born of that analysis be born by the property owners or by the city?*

Chris Thompson: *By the property owners and any repairs that are necessary.*

Mayor Smothers: *Were they put into place by city standards, do you know, Chris?*

Chris Thompson: *We visited the site one day on another matter. One of the property owners had put in a plastic pipe in their front ditch and was told by staff that it was not allowed in our public right-of-way. The gentlemen then informed the city that it was not in the city, it was in the*

county. That's when the services were stopped and everybody went from inside rates to outside rates (water and sewer). I think everybody in the subdivision at that time wanted to be annexed except for that one property owner-that's my recollection of it.

Mayor Pro Tem Alexander: Are there some property owners here?

Chairman Bencini: Anyone care to speak in favor of this request? Please come forward. Would you identify yourself for the record, please?

Chad Meredith: My name is Chad Meredith. I own the parcel....

Chairman Bencini: What's your address, Chad?

Chad Meredith: It's 3930 Cole Avenue and I bought this property last year, I think it was in June. I'm finding out that it was a bit of a lame duck. The property's just sitting there without any possibility of being developed unless we do something to get this neighborhood at the west Bend annexed. So, what I did was... my plan was to troubleshoot and find out what it was that went wrong after all these years. I guess nine years ago, the homeowner's that purchased their homes there at the West Bend Subdivision were under the impression that it was, in fact, annexed. Not only were they under the impression, but they were actually given papers saying that it was actually annexed into the city. They are dated, signed and I don't really know what else it would take to convince anybody that they were annexed.

Mayor Pro Tem Alexander: A property tax bill.

Chad Meredith: So, as far as the street is concerned, we've gone about every measure to assure the city that we're going to bring it up to standards to fit for the annexation. There was a punch list involved of which...one of which we've actually...two or three of these I was informed of that I would have to do...or we would have to do. Myself in conjunction with the homeowner's association to bring the street up to spec for the annexation. We're removing the black plastic piping out from the ditch. It's going to be a couple thousand dollars. The homeowner's association doesn't have an excessive amount of money-especially when you're only getting \$25-\$30 dollars a month from these owners, begrudgingly, who don't want to be paying anyway. I don't have an excess amount of cash laying around to actually bring this road up to spec and the new thing that I was just hearing about...as far as having the inspection of the water/sewer piping and all that...this is brand new material I've never heard before-ever. I've no idea about that. All we were told is that we would need to bring the road up to spec. We've got a bond issue for \$2,200 (10% above the estimate cost that I was given by a contractor) to actually dig out the plastic pipe-remove it and take the excess dirt-just do with it what we need to and what we're looking at having done here is yes, we would like to have maintenance of the road taken over by the City of High Point. We would like to have trash picked up and city services with water and sewer and all that. The fact is...I guess the biggest point is that...it was originally annexed-and then, it was basically reversed and I don't know why. I think Pat Kitner and/or husband can probably elaborate about that a little more, but what we're looking to have here is something to be done that was actually done long ago, but was actually revoked. Do you guys have any questions?

Council Member Wilkins: I've got a question for you. If you're talking about bringing the street up to standard, then are you going to...who does the street belong to, I think I missed that part.

Chad Meredith: The homeowner's association.

Council Member Wilkins: Okay, will you give that street to the city if you want us to maintain it?

Chad Meredith: Yes. The secretary/treasurer, Pat and Leroy, the President back there..yes, they would like to have that done. And, subsequently myself-probably not me, but what I'm looking to do is actually sell the parcel that I own to a developer who would probably develop....the developers I've spoken to would build \$150-\$160,000 homes and at this point, I

can't even do anything like that. I mean nobody's even...nobody's willing to sign a dotted line unless I get this annexed. I'm at a mute point. But, yes, they would love for the city to take over the street as was originally planned.

Mayor Smothers: Have you been working on this since 1997?

Chad Meredith: They have. I have since June.

Mayor Smothers: Because I noticed that one of these letters is dated 1997 from Perry. We don't move too fast, do we?

Chad Meredith: Well, I think they were looking for an impetus to get this going and I came in here with a fresh mind and some vested interest and yes, I was like we need to get it going. Let's make it happen before they run out of steam. I tried to put a little wind in their sails and make it happen.

Chairman Bencini: But, the original problems in the annexation was because not all the property owners agreed to it, is that correct?

Chad Meredith: Was that an original problem, or was it actually annexed and then after it was already annexed, then a subsequent letter came to them saying no you're not annexed. Then, after that, they tried to petition to have it annexed. Then they came up with only ten out of the eleven signatures required for the annexation.

Chairman Bencini: That's a state law requirement.

Chad Meredith: But now we've got 100%. We've got all eleven signatures-eleven of the homeowners plus myself.

Vice-Chair Whitley: Where is the developer at?

Chad Meredith: I have no idea. Actually, what I heard is that he lost his license.

Mayor Smothers: How many homeowners are here? [two]

Mayor Pro Tem Alexander: You know the big thing here is getting the city to take over the street and the utilities under the street. That could be prohibitively expensive in the future for the property owners.

Mayor Smothers: Well, apparently from what he said, they have an estimate of \$2,200 to bring the street and correct the plastic pipe issue.

Chad Meredith: Do you have the punch list-a copy of the punch list?

Mayor Smothers: Yes.

Chad Meredith: As far as we know, Mark and I believe that number one is probably taken care of, but nine years later that stone is probably buried underneath grass/dirt and everything e'lse, so it's actually...once we actually start doing the digging, we can probably dredge up and find the relics of the gravel which we can't really physically see right now. Two, three, and four we can take care of

with the \$2,200 bond that we had issued. Number five is kind of out of our league to be honest. We don't-I don't have and we don't have together thousands of dollars to spend on what it would cost to actually remove and replace the broken asphalt. So....

Mayor Smothers: Is that basically where you go into someone's driveway where it's broken?

Chad Meredith: It is parallel with....there's a stretch right in front of a persons property. I think it's 13923 and it runs all along their frontage. So approximately 75' and it's basically all on one side of the road.

Mayor Smothers: It's probably where water got under it.

Chad Meredith: And that's what we thought would get taken care of by manicuring the road so we'll have the ditches dug and...so as to prevent any further problems like that.

Council Member Faircloth: Have you talked with a developer about developing this land?

Chad Meredith: Very little. They don't elaborate very much. They don't want to put any ideas in my head so that I might could go out and do it myself and not sell the land to them, but no I haven't. I don't want to get into it myself. I'm too young and unaware of actually how to go about that and I don't want to lose a lot of money taking a big chance.

Council Member Faircloth: I just wondered about the possibility of the developer assisting with some of these costs. It's a possibility.

Chad Meredith: But we fully agreed to take care of, I guess more or less steps one through four are already actually financed with that bond. And, we would like to actually petition if you guys would be so kind, to actually take over the road for maintenance and even if we could reach a compromise at the very least, that the asphalt be replaced by the city.

Mayor Smothers: Mr. Bencini, would you accept that perhaps the staff needs to get a little bit more information on this to us?

Chairman Bencini: I think that's probably good and I think we probably need to continue this to some future date.

Mayor Smothers: I speak only for myself, but I think the city has some responsibility in this issue.

Chad Meredith: Okay, what material are you looking to get?

Mayor Smothers: Well, we need to find out about that road-the condition of that road, but they'll do that-you don't have to do it.

City Manager Strib Boynton: What we'll do is if the Council seems to be asking us to do that, we would sit down with staff and you and would work out these details and get the information together that we need to bring back to Council in the next couple to three weeks.

Mayor Pro Tem Alexander: In addition to the roads, should we go ahead and look at the utilities underneath that road?

Mayor Smothers: Surely, if we approved it to be recorded as a subdivision, there's got to be a record some where over there of what was put in it.

Chad Meredith: I'm not aware of any problems. As far as I know, everything is fully functional, but even if there were small issues, I mean are we going to be penalized for the fact that it went this long without being reannexed. And re is the key two letters there.

Chairman Bencini: Well, I don't know that's the case. I don't think we need to quibble over whether it was ever annexed or not annexed. The fact is that it's not part of the city and the tax bills indicate that.

Chad Meredith: Well, we're fully willing to pay the city taxes.

Mayor Smothers: So, staff you know who to get in touch with if you need to get in touch with anybody?

Chairman Bencini: And, I don't know that we really need to set a date at this point. I think we'll just kind of continue it to some point in the future and let staff guide us as far as when they'll be ready to give us the additional information required.

Council Member Bernita Sims: I don't know if I like that at some point in the future, Mr. Bencini. I think there needs to be a deadline placed on it. Because some point in the future could be May...so

Chairman Bencini: That's okay, what does staff feel comfortable as far as a date?

Mayor Smothers: They ought to be able to get back to us within two weeks-by the time we meet again.

Chairman Bencini: Okay, the 21st? Continue it to the 21st. I make a motion to continue this public hearing to the 21st.

Owen Strickland: Second.

Mayor Smothers: All in favor, say Aye. Aye. Any opposed [none]. Thank you. [9-0 vote]

City Manager Boynton: I'm going to make copies of your letter.

[end of transcript]

On February 21, 2005, the public hearing was continued to Tuesday, February 22, 2005 at 2:30 p.m.

Continued Public Hearing: February 22, 2005

Chairman Bencini began by asking staff if they had any further information on this case. Lee Burnette presented a review of the case. He advised that this was a request for voluntary annexation by the Westbend Homeowner's Association. There was a question that had come up with regards to acceptance of the street. There were five items that were mentioned that had to be addressed particularly relating to the street. Mr. Meredith, who spoke before Council at the February 7th meeting, provided a Statement of Required Improvements as well as a cash surety for those improvements. The intent is to have these improvements made by June 1, 2005. The improvements are to Cole Avenue, which are:

1. stone shoulder;
2. replacing and removal of the black plastic piping within the right of way areas;

3. *reshaping the shoulders and grade away for the roadway along three to four lot areas;*
4. *in the common area, provide a shoulder with stone to slope no greater than one inch per foot away from the roadway; and*
5. *replacing broken asphalt that is front of the residences.*

He reported that staff is satisfied that they have met the requirements for the voluntary annexation.

Mayor Smothers: *And the petitioner is still at 100%?*

Lee Burnette: *That's correct.*

Mayor Pro Tem Latimer Alexander: *Lee, there was a question by Public Services regarding televising the underground infrastructure, was that addressed?*

Lee Burnette: *Yes it was. In fact, those lines were, we had a conversation with the City Attorney, the City has had those lines, those were not private lines those are public lines.*

Committee Chair Bencini: *Is there anybody here who would like to speak in favor of this request?*

Patricia Ketner: *Hi, I am Patricia Ketner. I am a homeowner and also Secretary/Treasurer of the Westbend Homeowner's Association. I am in favor of the annexation, but I had some rhetorical questions I would like to pass by you if I could. One is, this development was actually started with the planning of the overflow pond, the retention pond back in 93. The road and the neighborhood were started in 94 to 95. At least a year and a half or more before the first homeowner bought a home in what we were told was the City, I would like to know, or I would like to ask a rhetorical question, why are we the homeowners being held responsible, or Mr. Meredith for repairs to the road to the common area and you know, whatever? On the property that we were told was in the City when we bought our homes, and we lived in the City for the first year, why are we being held responsible financially for all of this when we had city water, city sewer, electric? We had city trash and after that year...*

Committee Chair Bencini: *The tax bill was not from the City, it was from the County. You weren't part of the City.*

Mayor Smothers: *Did you pay taxes the first year?*

Patricia Ketner: *We had a neighbor that did pay taxes. We tried to get in touch. His name is Brian Woods. He did pay City taxes, and was refunded after we were told we were no longer in the City.*

Committee Chair Bencini: *So technically, he really didn't pay taxes.*

Patricia Ketner: *But is that our fault? I mean...*

Committee Chair Bencini: *It's not a question of whose fault it is. That's really not the purpose of what we are trying to do here. We are trying to go ahead and make it right, I think, as best we can for the entire neighborhood.*

Patricia Ketner: *As best you can would be the City and the developer take responsibility for...prior to us buying our home.*

Committee Chair Bencini: *That's as best as you would wish, but that's not as best as we can necessarily. I mean, it is not, they were never City streets.*

Patricia Ketner: But as far as anyone that bought in that neighborhood was concerned, we were told by everyone we were in the City, and for the first year had all the City services. Why now are we being held responsible for something that we had no part of?

Committee Chair Bencini: Really technically, you never were part of the City. You believed you were part of the City, but you...

Patricia Ketner: The City thought we were part of the City.

Committee Chair Bencini: Right, and the City was mistaken, too.

Patricia Ketner: So, we have to pay for your and the developer's mistake? That's all I wanted to say. Thank you.

Committee Chair Bencini: Okay. Thank you. Anyone else care to speak in support of this request, please come forward.

Nathanial Young: Yes, I just want to make sure I understand. What you are saying...

Committee Chair Bencini: Could you identify yourself please?

Nathanial Young: Yes, I am Nathanial Young. I am a tenant out there.

Committee Chair Bencini: Your name is what?

Nathanial Young: What you are saying is, if annexation is approved that the tenants will have to pay 100% of the fixing of the roads.

Committee Chair Bencini: Only to bring them up to City grade, and beyond that point the City would maintain them.

Nathanial Young: How much is...will we know how much that will be?

Lee Burnette: Mr. Meredith, they guy that spoke before you this morning will pay for that. It is not the homeowner's association. Mr. Meredith is the one that has one of the largest chunks of land...

Committee Chair Bencini: At the very end, who wants to develop that.

Lee Burnette: Yes, he has agreed to make those improvements.

Mayor Smothers: So he is absorbing all those costs, so your question is as to the tenants. No. Nor property owners, just Mr. Meredith.

Committee Chair Bencini: Mr. Meredith has agreed to pay everything.

Nathanial Young: Everything, 100%?

Committee Chair Bencini: Everything that relates to the roads. Is there anything else besides the road infrastructure that there is a problem with.

Lee Burnette: No, the only area in question in terms of deficiency, water and sewer lines are maintained by the City, they were dedicated to the City, accepted by the City. The street, once these conditions have been met, they will be accepted for maintenance by the City, and they...

Committee Chair Bencini: And I don't really know of anything else, you know whatever else the Homeowner's Association is involved in. I don't know if there is a pool or a common park area. I don't know anything else about your homeowner's association. All we are really dealing with here, really were sewer related items as well as water and sewer related items and the road items. Water and sewer has basically been resolved already, and the only thing that is left to be done is the improving the roads back up to City standard, and then the City will take care of it from that point. But getting it to City standard, as Mr. Burnette has said would be the responsibility of Mr. Meredith.

Nathanial Young: Yeah, I just want to make sure there is 100%. Because my understanding that he was just going to do up to the end of the road, where Mr. Sonny lived.

Mayor Smothers: Is Mr. Meredith here? Let's let Mr. Meredith perhaps clarify. Is that alright Mr. Bencini?

Committee Chair Bencini: That's fine. That's just wonderful.

Chad Meredith: Well the idea is there is a 6 x 76 chunk of asphalt in front of, I think it's 3223, I think, the last house in the neighborhood. And I agreed after taking the contractor out there, is to actually pay for it in full. The \$2,000.00 plus 10% just in case there were some extras and things that came up, I agreed to pay for it. Basically allowing you guys not to incur further extensive charges in the future when and if you have to actually take care of it yourself if you were not annexed to the City. It's basically going to snowball and get worse, progressively worse, and I was semi-reluctant to actually do it. I was under the understanding that it would be hard for the homeowner's association to actually take care of financing something like that. So, I do have a vested interest in this, as I am having to take care of it myself and trying to take care of you guys at the same time, so we all are getting something out of this.

Nathanial Young: We just somehow would like to make sure that the homeowners are not stuck with the bill. I mean if something were to pop up that was not on the list.

Chad Meredith: Yeah, that's, all those five points were addressed and that's actually why we are here now.

Nathanial Young: So everything that's...

Mayor Smothers: That's what they tell us. Yes.

Committee Chair Bencini: That's what they tell us.

Mayor Smothers: They the staff and Mr. Meredith. And he has presented a document, which he has signed and also some indication that he has secured the estimated costs.

Nathanial Young: So what you are saying is that the City has gone out there and...

Mayor Smothers: Our engineers have accepted what he has proposed to do to bring the road to standard.

Chad Meredith: I am guaranteeing that I will take care of it, and you guys can stay out of it. I mean you don't have to get involved, I'll take care of it, I'll work out all the technicalities, take care of everything.

Mayor Smothers: Now, would the annexation date be subject to the improvements and acceptance?

Committee Chair Bencini: It would be subject to the approval of the ...

Lee Burnette: I don't think there is any particular, I mean the annexation and acceptance of the road are two separate issues. We have a cash surety, so if for some reason it doesn't happen, we have cash on hand to insure it will.

Committee Chair Bencini: Okay. So it can be effective upon adoption.

Lee Burnette: And again, just for the record, part of the annexation, they will be subject to City taxes, however, they will receive a reduction in water and sewer rates as a result of that, as well as they will be eligible for solid waste services as well.

Committee Chair Bencini: Anyone else care to speak in favor of this request? Anyone care to speak against in opposition? Seeing no one, I am going to **close the public hearing.**

The Committee took action to place this matter on today's Agenda with a favorable recommendation for adoption of the Ordinance providing for the annexation of the property.

February 24, 2005 Meeting

At today's meeting, Council Member Whitley informed Council that he personally visited the site and noted there is a sign that identifies the road as a private road. He expressed concerns that the individual submitting the petition would have to bring the road up to standard before the property is annexed. Mayor Smothers noted that this issue was raised at Tuesday's Planning and Development Committee Meeting and it was felt that since he has presented the city with sufficient to cover the improvements, it was deemed not to be an issue any longer.

Chairman Bencini felt that Council Member Whitley brought up a good point and that it might be a good idea to make sure that the street is brought up to standards before the property at the end of the street is developed. At this time, Chad Meredith, the petitioner, assured Council that the road would be brought up to standard and improvements made before development of the property would occur. He noted that plans are to do this within the next four weeks (definitely by August 1st).

Adopted the Ordinance providing for the annexation of this property pursuant to the petition filed by West Bend Home Owner's Association.

A motion was made by Council Member Bencini, seconded by Council Member Sims, that this matter be adopted. The motion carried unanimously. (9-0 vote)

Ordinance No. 6228/05-19

Introduced 02/07/05

Adopted 02/24/05

Ordinance Book Volume XIV, Page 124

Exhibit Book Volume V, Page 30

Adjournment

There being no further business to come before Council, the meeting adjourned at 9:05 a.m. upon motion duly made and seconded.

Respectfully submitted,

Rebecca R. Smothers, Mayor

Attest:

Lisa B. Vierling, MMC

State of North Carolina
 Department of the Secretary of State
Cancellation of Certificate of Domestic or Foreign Limited Partnership

A. Return Acknowledgement to:	Office Use Only
Name:	
Mailing Address:	
City/State/Zip:	

Read instructions on reverse before beginning. Attach additional pages as needed and complete appropriate section.

☐ B. DOMESTIC LIMITED PARTNERSHIP CANCELLATION

No. of pages
attached:

1. Name of limited partnership:

2. Date originally filed with Secretary of State:

3. Number originally assigned by Secretary of State:

4. Reason for cancellation:

5. Effective date of cancellation (not to exceed 90 days from this filing by Secretary of State):

6. Any other information partners wish to present:

7. The following signatures by each general partner constitute an affirmation under the penalties of perjury that the facts herein are true.

Complete for each general partner.

Signature

Date

1. Name

Title

2. Name

Title

3. Name

Title

☒ C. FOREIGN LIMITED PARTNERSHIP CANCELLATION

No. of pages
attached:

1. Name of limited partnership: WCA of North Carolina, L.P.

2. Name used to transact business in N.C., if different:

3. Date originally filed with N.C. Secretary of State: 03/01/05

4. Number originally assigned by N.C. Secretary of State: 0770247

5. Reason for cancellation: Business of partnership has concluded.

6. Effective date of cancellation (not to exceed 90 days from this filing by N.C. Secretary of State): Upon filing

7. Any other information partners wish to present:

8. The following signature by one general partner constitutes an affirmation under penalty of perjury that the facts herein are true:

By: WCA NC Management General and its GP
 J. EDWARD MENDER Vice Pres. of G.P. 12/21/2005

Type or print name

Title

Signature

Date

NOTES:

1. Filing fee is \$25.00. This document and one exact or conformed copy must be filed with the Secretary of State.

(Revised January 2000)

CORPORATIONS DIVISION

P.O. BOX 29622

Form LP-03
 RALEIGH, NC 27626-0622